IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl..No. 4415 of 2007()

CRIME NO.23 OF 2007 OF AGALI POLICE STATION

PETITIONER : 2ND ACCUSED:

PRASAD, S/O.GANGADHARAN, AGED 24 YEARS,K
KIZHAKKEKKARA PUTHENVEETTIL, DONNY KUNDU,
CHETTIPURAM, JELLIPPARA POST, AGALI,
PALAKKAD DISTRICT.

BY ADV. SRI.V.A.AJAI KUMAR

RESPONDENTS: COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
AGALI POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4415 of 2007

Dated this the 24th day of July, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. He faces allegations along with co-accused under the Kerala Abkari Act. On 27.02.07, all the 4 accused persons were allegedly found to keep in their possession 75 litres of arrack. On seeing the detecting party, accused 1 to 3 took to their heels and could not be arrested at the scene. A4 was arrested. Contemporaneous records like the seizure mahazar and the occurrence report reveal the complicity of the petitioner. Investigation is in progress. The 3rd accused has already been arrested. Accused 3 and 4 have been enlarged on bail also. Accused 1 and 2 have not been apprehended so far. The petitioner, the 2nd accused prays that directions under Section 438 Cr.P.C may be issued in favour of the petitioner. He is sick. He is innocent. He is prepared to surrender before the learned Magistrate or the Investigating Officer and abide by any appropriate conditions, submits the learned counsel for the petitioner.

2. It is for the petitioner to appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail. I do not find any features in this case, which would justify invocation of the extraordinary equitable discretion under

Section 438 Cr.P.C. I have no reason to assume that the petitioner's application for regular bail shall not be considered by the learned Magistrate promptly and in accordance with law. No special or specific directions appear to be necessary.

3. This application for anticipatory bail is, in these circumstances, dismissed. Needless to say that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-